

Notice of Allowability

Application No.

09/714,774

Applicant(s)

KERKER ET AL.

Examiner

John M. Winter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on October 6, 2006.
2. ☒ The allowed claim(s) is/are 1-3,5-17,21-41,51-53,55-67 and 71-91.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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DETAILED ACTION

An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this Examiner's amendment was given in a telephone interview with Jim Katz on February 22, 2007.

The application has been amended as follows:

Claim 1.

A method for facilitating electronic commerce through a network, said network comprising at least one server computer capable of communicating with a browser system located at a remote client computer, said method comprising:

(a) receiving from a user registered with a multi-level marketing system as a client, member or independent business owner ("IBO"), by said at least one server computer ~~from said browser system~~, a first request for a first suggested order to be fulfilled, said first suggested order comprising identification of a first two or more suggested products or services of a plurality of products or services, said first suggested order also comprising a first suggested recurrence including product specific recurrences for said fulfillment of each of said first two or more suggested products or services and said first suggested order further comprising first suggested quantities for said fulfillment for each of said first two or more suggested products or services, wherein said product specific recurrence for a first of said first two or more suggested products or services is configurable via said browser system and may be different than said product specific recurrence for a second of said first two or more suggested products or services;

(b) generating a first profile, by said at least one server computer, said first profile comprising a computer readable representation of said first suggested order;

(c) modifying, by the at least one server computer, said first suggested quantities, said product specific recurrences, or combinations thereof, the modifying attempting to equalize, with respect to said first suggested order, a distribution of a total cost per recurrence, a distribution of a total quantity per recurrence, a distribution of cost for a selected one of said products or services per recurrence, a distribution of quantity for the selected one of said products or services per recurrence, a distribution of incentive compensation per recurrence, or combinations thereof; and

(d) causing, by said at least one server computer, said fulfillment of each of said first two or more suggested products or services to automatically recur one or more times according to said distribution, by signaling a said multi-level marketing system to direct ~~associated with~~ said at least one server to fulfill each of said first two or more suggested products or services of said first suggested order according to said distribution.

Claim 3.

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The method of Claim 1, wherein said plurality of products or services are ~~associated with~~ a provided by said multi-level marketing system.

Claim 5.

The method of Claim 1, wherein said plurality of products or services is ~~associated with~~ marketed via a respective plurality of electronic commerce system products or services web files.

Claim 6.

The method of Claim 5, wherein said plurality of electronic commerce system products or services web files are operatively coupled with a web site ~~associated with~~ accessible via said network, said network comprising an electronic commerce system.

Claim 10.

The method of Claim 1, further comprising:

(e) receiving, by said at least one server computer from said user browser system, a second request for a second suggested order to be fulfilled, said second suggested order comprising identification of a second two or more suggested products or services of said plurality of products or services, said second suggested order also comprising a second suggested recurrence for said fulfillment of each of said second two or more suggested products or services and second suggested quantities for said fulfillment for each of said first two or more suggested products or services, wherein said first suggested recurrence associated with a first of said first two or more suggested products or services is configurable via said browser system and may be different than said first suggested recurrence associated with a second of said first two or more suggested products or services; and wherein (b) further comprises generating, by said at least one server computer, a second profile, said second profile comprising a computer readable representation of said second suggested order, wherein (d) further comprises causing, by said server computer, said fulfillment of said second suggested order to automatically recur one or more times according to said second suggested recurrence based on said computer readable representation, by signaling said multi-level market system ~~associated with~~ to direct said at least one server to fulfill each of said first two or more suggested products or services according to said associated of said second suggested recurrence.

Claim 51.

An order management system for facilitating electronic commerce over a network, said network comprising at least one server computer capable of communicating with a browser system located at a remote client computer over said network, said order management system comprising:

an order receiver operative to receive, from a user registered with a multi-level marketing system as a client, member or independent business owner ("IBO") ~~said browser system~~, a first

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request for a first suggested order to be fulfilled, said first suggested order comprising identification of a first two or more suggested products or services of a plurality of products or services, said first suggested order also comprising a first suggested recurrence including product specific recurrences for said fulfillment of each of said first two or more suggested products or services and said first suggested order further comprising first suggested quantities for said fulfillment for each of said first two or more suggested products or services, wherein said product specific recurrences for a first of said first two or more suggested products or services is configurable via said browser system and may be different than said product specific recurrences for a second of said first two or more suggested products or services;

a profile generator coupled with said order receiver and operative to generate a first profile, said first profile comprising said first suggested order;

an order balancing processor coupled with said profile generator and operative to modify said first suggested quantities, said product specific recurrences, or combinations thereof, the modifying attempting to equalize, with respect to said first suggested order, a distribution of a total cost per recurrence, a distribution of a total quantity per recurrence, a distribution of cost for a selected one of said products or services per recurrence, a distribution of quantity for the selected one of said products or services per recurrence, a distribution of incentive compensation per recurrence, or combinations thereof ; and

an order generator responsive to said first profile and operative to cause said fulfillment of each of said first two or more suggested products or services to automatically recur one or more times according to said distribution, each of said first two or more suggested products or services of said first suggested order being fulfilled according to said distribution.

Claim 53.

The order management system of Claim 51, wherein said plurality of products or services are provided by said ~~associated with~~ a multi-level marketing system.

Claim 55.

The order management system of Claim 51, wherein said plurality of products or services is ~~associated with~~ marketed via a respective plurality of electronic commerce system products or services web files.

Claim 56.

The order management system of Claim 55, wherein said plurality of electronic commerce system products or services web files are operatively coupled with a web site ~~associated with~~ accessible via said network, said network comprising an electronic commerce system.

Claim 60.

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The order management system of Claim 51, wherein:

said order receiver is further operative to receive, from said user browser system, a second request for a second suggested order to be fulfilled, said second suggested order comprising identification of a second two or more suggested products or services of said plurality of products or services, said second suggested order also comprising a second suggested recurrence including second product specific recurrences for said fulfillment of each of said second two or more suggested products or services and second suggested quantities for said fulfillment for each of said second two or more suggested products or services, wherein said second product specific recurrences for a first of said second two or more suggested products or services is configurable via said browser system and may be different than said second product specific recurrences for a second of said second two or more suggested products or services;

said profile generator is further operative to generate a second profile, said second profile comprising said second suggested order;

said order balancing processor further operative to balance either said second suggested quantities or said second product specific recurrences, the balancing thereby substantially equalizing a distribution of subsequent recurrences of said second suggested order; and

said order generator is further responsive to said second profile and operative to cause said fulfillment of each of said second two or more suggested products or services to automatically recur one or more times according to said distribution, each of said second two or more suggested products or services of said second suggested order being fulfilled according to said associated distribution.

Allowable Subject Matter

Claims 1-3,5-17, 21-41, 51-53,55-67 and 71-91 are allowed over the prior art record.

1. The following is an examiner's statement of reasons for allowance:
2. The closest prior art of record Cockrill et al. (US Patent Application 2002/0059114) teaches a transaction network that simplifies transactions. Akiyama (EP 1 041 767 A2) teaches a system for authenticating data send to a certified system. Microsoft Business Solutions teaches a system streamlining order processing.

What they fail to teach or suggest:

As per claim 1,

none of the art of record, taken individually or combination disclose at least the steps/components of :

receiving from a user registered with a multi-level marketing system as a client, member or independent business owner ("IBO"), by said at least one server computer , a first request for a first suggested order to be fulfilled, said first suggested order comprising identification of a first two or more suggested products or services of a plurality of products or services, modifying, by the at least one server computer, said first suggested quantities, said product specific

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recurrences, or combinations thereof, the modifying attempting to equalize, with respect to said first suggested order, a distribution of a total cost per recurrence, a distribution of a total quantity per recurrence, a distribution of cost for a selected one of said products or services per recurrence, a distribution of quantity for the selected one of said products or services per recurrence, a distribution of incentive compensation per recurrence, or combinations thereof ; and causing, by said at least one server computer, said fulfillment of each of said first two or more suggested products or services to automatically recur one or more times according to said distribution, by signaling said multi-level marketing system to direct said at least one server to fulfill each of said first two or more suggested products or services of said first suggested order according to said distribution.

As per claim 51,

none of the art of record, taken individually or combination disclose at least the steps/components of :

an order receiver operative to receive, from a user registered with a multi-level marketing system as a client, member or independent business owner ("IBO") , a profile generator coupled with said order receiver and operative to generate a first profile, said first profile comprising said first suggested order; an order balancing processor coupled with said profile generator and operative to modify said first suggested quantities, said product specific recurrences, or combinations thereof, the modifying attempting to equalize, with respect to said first suggested order, a distribution of a total cost per recurrence, a distribution of a total quantity per recurrence, a distribution of cost for a selected one of said products or services per recurrence, a distribution of quantity for the selected one of said products or services per recurrence, a distribution of incentive compensation per recurrence, or combinations thereof ; and an order generator responsive to said first profile and operative to cause said fulfillment of each of said first two or more suggested products or services to automatically recur one or more times according to said distribution, each of said first two or more suggested products or services of said first suggested order being fulfilled according to said distribution.

Even if the features missing from the above cited prior art were found in a reasonable number of references a person of ordinary skill in the art at the time of the invention would not have been motivated to combine these reference because the claimed feature of " modifying, by the at least one server computer, said first suggested quantities, said product specific recurrences, or combinations thereof, the modifying attempting to equalize, with respect to said first suggested order, a distribution of a total cost per recurrence, a distribution of a total quantity per recurrence, a distribution of cost for a selected one of said products or services per recurrence, a distribution of quantity for the selected one of said products or services per recurrence, a distribution of incentive compensation per recurrence, or combinations thereof" is not a feature normally associated with product distribution systems and therefore would have to be disclosed by art unrelated to product distribution systems.

Claims 2-3,5-17, 21-41, 52-53,55-67 and 71-91 are dependant upon claims 1 and 51 respectively and are therefore allowable for at least the same reasons.

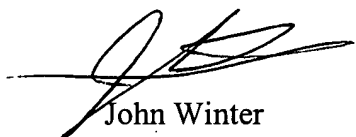
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Winter whose telephone number is (571) 272-6713. The examiner can normally be reached on M-F 8:30-6, 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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